GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

B.C. Welfare Department – Appeal petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan, Chittoor District against the proceedings of the District Collector, Chittoor District under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificate Act, 1993 – Appeal petition dismissed/rejected –Orders – Issued.

BACKWARD CLASSES WELFARE (F) DEPARTMENT

G.O.MS.No. 26 **Dated: 12-02-2019.**

Read the following:

1. Proceedings of the District Collector & Magistrate, Chittoor District No. D.Dis.C3/2082/2013, dt.27.06.2014.
2. Appeal Petition filed by N. Kaviyarasan, S/o. N.Vasanthan, Chittoor District, dt.19.07.2014.
3. Govt. Memo. No. 2061/C/A2/2014, dt.31.07.2014.
4. Hon'ble A.P. High Court order dt. 19.09.2014 in W.P.No.28050/2014 filed by N. Kaviyarasan, S/o. N.Vasanthan, Hindi Pundit, R/o.10/128, Ankesettu Street, Oldpet, Palamaner Town and Mandal, Chittoor District.
5. From the Dist.Collector, Chittoor, Roc.C3/4651/2014, Dt.08.10.2014.
6. Hon'ble A.P. High Court order dt. 17.04.2015 in W.P.No.11141/2015 filed by K. Vani Sailaja, D/o. K. Rajanna, D.No. 15-06-A1, C.T.M. Road, Madanapally, Chittoor District, A.P.
7. Hon'ble A.P. High Court Show Cause Notice CC No.1140/2016 filed by K. Vani Sailaja, D/o. K. Rajanna, D.No. 15-06-A1, C.T.M. Road, Madanapally, Chittoor District, A.P.
8. Government Memo No.2061/C/A2/2014, Dated.18.08.2016.
9. G.O.Ms.No.40, B.C. Welfare (C) Department, Dated.03.11.2016
10. Orders of the Hon'ble High Court Judicature at Hyderabad in WP No.40666 of 2017 filed by Sri N.Kaviyarasan, S/o Vasanthan, Hindi Pandit, Chittoor District, Dated.17.02.2017.
11. Orders of the Hon'ble High Court Judicature at Hyderabad in Writ Appeal No.282 of 2017 filed by Miss K.Vani Sailaja, D/o K.Rajanna, Chittoor District, Dated.14.03.2017.
12. Appeal filed by Miss K.Vani Sailaja, D/o K.Rajanna, Chittoor District before the Govt., of A.P.
13. Govt., Memo No.2061/F/A2/2014, Dated.25.07.2017.
14. G.O.Ms.No.28, B.C. Welfare (C) Department, Dated: 12.10.2017.
15. Orders of the Hon'ble High Court Judicature at Hyderabad in WP No.34846 of 2017 filed by Sri N.Kaviyarasan, S/o Vasanthan, Hindi Pandit, Chittoor District, Dated.13.03.2018.
16. Govt., Memo No.2061/F/A2/2014, Dated.29.06.2018, 23.07.2018, and 01.8.2018

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ORDER :

In the reference 1st read above the District Collector, Chittoor District has issued orders cancelling BC-Vanyakulakshetriya Caste Certificate issued in favour of Sri N.Kaviyarasan, S/o Vasanthan, by the then Mandal Revenue Officer / Tahasildar, Palamaner, Chittoor District.

2. In the reference 2nd read above, Sri N.Kaviyarasan, S/o N.Vasanthan, Chittoor District has filed an appeal petition before the Government, against the said proceedings of the District Collector, Chittoor District. After examining the said Appeal petition, Government have admitted the Appeal Petition and called for the para-wise remarks and connected records from the District Collector, Chittoor vide reference 3rd read above.

3. In the reference 5th read above, the District Collector, Chittoor has furnished the para-wise remarks and connected records on the Appeal Petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan.

4. In the reference 4th read above, Sri N.Kaviyarasan, S/o N.Vasanthan, Hindi Pundit, R/o.10/128, Ankesettu Street, Oldpet, Palamaner Town and Mandal, Chittoor District filed a Writ Petition No. 28050 / 2014 in the Hon'ble High Court of A.P. seeking directions to the first respondent i.e., Govt., of A.P. represented by its Prl. Secretary to Government, B.C. Welfare Department to dispose-off the Appeal dated: 19.07.2014 against the orders dated: 27.06.2014 passes by the Collector and District Magistrate, Chittoor District, Chittoor.

5. The Hon'ble High Court of A.P. Hyderabad after hearing the Writ Petition, directed the 1st respondent i.e., Government of AP represented by its Prl. Secretary to Government, B.C. Welfare Department to dispose off the appeal filed by the Sri N. Kaviyarasan within a period of two months from the date of receipt of a copy of this order and the petitioner shall not be terminated from service in pursuance to the show cause notice dated 09.09.2014 pending disposal of the appeal before the Government.

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6. In the reference 6th read above, K. Vani Sailaja, D/o. K. Rajanna, Madanapally, Chittoor District, A.P. has filed a Writ Petition No.11141/2015 seeking directions to dispose off the appeal filed by the Sri N. Kaviyarasan as per the orders of the Hon'ble High Court in W.P.No. 28050/2014 dt. 19.09.2014 since her rights are deprived adversely due to delay in disposing off the appeal.

7. The Hon'ble High Court of A.P. Hyderabad, in CC No. 1140/2016 filed by Kum K.Vani Sailaja, D/o. K.Rajanna directed the respondent to show cause either appearing in person or through advocate duly instructed on 19.08.2016 to which date the case stands posted for hearing, failing wherein, the said case will be heard and determined ex-parte.

8. The said Appeal Petition has been posted for hearing before the Government on 16.02.2015, 29.02.2016, 31.05.2016, 05.08.2016, 08.08.2016, 2.9.2016, 03.8.2017, 12.7.2018, 23.7.2018, 1.8.2018, 2.8.2018, and the same have been informed to the Appellant with a request to attend for the hearing on the said date with relevant records and present the case in person or through authorised Counsel.

9. In the reference 8th read above, Government after examining the material evidence with reference to facts and circumstances related to the Appeal Petition, have ordered to kept the impugned proceedings issued by the District Collector, Chittoor in the reference 1st read above in abeyance until further orders by disposing the appeal petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan.

10. After examination of the records / the copies of evidences / academic record/ grounds filed by the appellant / the parawise remarks submitted by District Collector, Chittoor and proceedings of the District Collector, Chittoor dated.27.06.2014 and after hearing of the arguments the following points on the community claim of Sri N.Kaviyarasan, S/o N.Vasanthan are observed by the Appellate Authority.

i. Sri N.Nandeswar Gounder who is the grandfather of Sri N.Kaviyarasan, is a native of Gudiyatham of Tamilnadu State, that

ii. the elders of Sri N. Kaviyarasan belong Gudiyatham, Tamilnadu State.

iii. On the traditions of the caste in and around Palamaner mandal of Chittoor District and found that there is no distinguished tradition to the people of Gounder, that the people belongs to Gounder are doing cultivation and working as Agricultural Labour at Baippagaripalle, Chethapenta, Kalavapalle Village of Palamaner Mandal who are migrated permanently from Gudiyatham Taluk of Tamil Nadu State. There is no such culture of treating the people of Gounder as Vanyakulakshathriya.

iv. There is no "Gounder" caste is listed neither in SC, ST and BC lists notified by the Government of AP. Moreover "Vanyakulakshtriya" is not a substitute caste to "Gounder" caste as per BC list of Government of AP.

v. On verification of School records i.e., Transfer Certificate from 1st standard to up to his completion of Hindi Pundit training, it is reveals that, he is belongs to Indian – Hindu – Gounder, but not "Vanyakulakshatriya – BC.

vi. The DLSC, after due enquiry into the matter and taking into consideration of the material evidence of the record and enquiry report of Sub-Collector, Madanapalli of Chittoor District and Joint Committee has recommended for cancellation of "Vanyakulakshatriya" BC caste certificate issued to the appellant.

11. In the reference 9th read above, orders were issued upholding the District Collector, Chittoor District vide Proceedings No.D.Dis.C3/2082/2013, Dt.27.06.2014 and appeal petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan is dismissed in supersession of the reference 8th read above.

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12. In the reference 10th read above, aggrieved on the orders of the Govt. Sri N.Kaviyarasan has filed W.P.No.40666/2016. The Hon'ble High Court have observed that "the orders were passed without hearing the petitioner and on the basis of the remarks furnished by the District Collector, Chittoor. Govt., earlier took a stand that the orders passed by the District Collector requires to be kept in abeyance on the basis of the remarks furnished by the petitioner and accordingly, disposed of the appeal by proceedings dated.18.8.2016. Thereafter, without issuing any notice to the petitioner, the impugned G.O. was issued on 03.11.2016 by superseding the said orders upholding the orders of the District Collector. The Hon'ble High Court in its orders dated.17.02.2017 have issued orders as follows:

> "In the circumstance, the impugned G.O.Ms.No.40, Backward Classes Welfare (C) Department, dated.3.11.2016, is set aside and the matter is remanded to the first respondent for re-consideration of the issue in the light of the orders passed by the first respondent on 18.8.2016 and for passing appropriate orders after hearing the petitioner in accordance with law. However, it is open to the Petitioner to raise all grounds that are available to him under law in the said hearing."

13. In the reference 11th read above, the Hon'ble High Court in its order dated.14.03.2017 in Writ Appeal No.282 of 2017 filed by Miss K.Vani Sailaja, D/o K.Rajanna have issued orders as follows :

> "We consider it appropriate, in such circumstances, to direct the Principal Secretary, BC Welfare Department to give both the 1st respondent and the appellant herein an opportunity of being heard and, thereafter, pass appropriate orders at the earliest, and in any event not later than four months from the date of receipt of a copy of this order.
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> The order of the Learned Single Judge is modified to the extent indicated hereinabove, and the Writ Appeal is disposed of accordingly. "

14. In obeying the orders of the Hon'ble High Court in W.P.No.40666/2016, in its orders Dated.17.02.2017 filed by Sri N.Kaviyarasan, S/o N.Vasanthan and Writ Appeal No.282 of 2017, in its order dated.14.03.2017 filed by Kum K.Vani

Sailaja, D/o K.Rajanna, the appeal petition has been posted for hearing before the Govt., on 03.08.2017 and the same has been informed to the Appellant and Miss K.Vani Sailaja, D/o K.Rajanna with a request to attend the hearing in person or through authorized Counsel with all documentary evidences / Certificates in support of the community claim failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

15. The appellant has attended the hearing on 03.08.2017 and no fresh grounds put forth before the Government

16. In the reference 14th read above, Government in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Caste, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decided that the Appeal Petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan does not deserve any interference, as the appellant has clearly admitted that he belongs to Gounder community and claims that Gounder Community is equivalent to Vannikulakshtriya in Andhra Pradesh. Even if it is assumed that Gounder Community also deserves benefits under BC reservation, such benefit cannot be extended till it is done through a proper process by the competent authority and notified by Government. The benefit of BC reservation cannot be extended till the time the said Gounder caste is included in the BC notified list or it is declared as equivalent to Vannikulakshtriya through proper notification. Hence, such benefit cannot be given to the appellant by the Government in this case. Hence Proceedings of the District Collector, Chittoor District issued vide Proceedings No.D.Dis.C3/2082/2013, dt. 27.06.2014 was upheld and the Appeal Petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan was dismissed, with directions to the District Collector, Chittoor District to take necessary action in the matter

17. The Government vide reference 16th read above, in view of the Orders of Hon'ble High Court , dt: 13.3.2018 in W.P.No. 34846 of 2017 in reference 15th read above , has posted the case for hearing before Government , finally on

02.8.2018 and accordingly , the date of hearing has been communicated to all the concerned.

18. The Government, in exercise of powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Caste, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decided that the appeal petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan does not deserve any interference as the appellant has clearly admitted that he belongs to Gounder Community is equivalent to VannikulaKshatriya in Andhra Pradesh. But the Gounder Community is not in the Backward Classes List Andhra Pradesh. For inclusion of Gounder caste in Backward Classes List the procedure as warranted in A.P. Commission for Backward Classes, Vijayawada is to be followed. Till inclusion of the "Gounder" caste in the Backward Classes List of Andhra Pradesh state by a notification, the benefit of B.C. reservations cannot be extended. Further the appellant has not produced any fresh grounds in-support of his claim. Therefore the appeal petition filed by Sri N.Kaviyarasan, S/o N.Vasanthan is hereby dismissed/rejected, and the Orders issued by the Collector & District Magistrate, Chittoor District, vide Proceedings No.D.Dis.C3/2082/2013, dt. 27.06.2014 were upheld.

19. The District Collector, Chittoor is requested to take necessary further action.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B. UDAYA LAKSHMI
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector & Magistrate, Chittoor District.
Sri N.Kaviyarasan, S/o N.Vasanthan, R/o.10/128, Ankesettu Street, Oldpet, Palamaner Town and Mandal, Chittoor District.
K.Vani Sailaja, D/o, K.Rajanna, D.No.15-06-A1,C.T.M.Road, Madanapally, Chittoor District. , A.P.

Copy to
The Director, B.C. Welfare, A.P., Vijayawada.
The Member Secretary, A.P. Commission for BCs, Vijayawada.
The Government Pleader for Social Welfare (BCW), High Court of A.P.,
The OSD to Minister (BCW)

The PS to Prl. Secretary to Government, BCW Dept.,
SF / SC

//FORWARDED: BY ORDER//

SECTION OFFICER